

FERNANDO BUSTILLO,)
)
Plaintiff,)
)
vs.) Case No. 2:13-cv-00120-JMS-WGH
)
Dr. PAUL HARVEY M.D.,)
WILLIAM F. WILSON M.D.,)
)
Defendants.)

Alleging that the defendants have submitted false testimony in filings in this case, plaintiff Bustillo seeks the sanction of default judgment. Federal courts have inherent powers to sanction litigants for bad-faith and fraudulent conduct related to federal cases. *REP MCR Realty, L.L.C. v. Lynch*, 363 F. Supp. 2d 984, 998 (N.D. Ill. 2005) These powers “‘are governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.’” *Id.* (quoting *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991)).

In support of his motion, Bustillo first asserts that a witness who testified in support of the defendants' opposition to his motion for a preliminary injunction testified falsely regarding Bustillo's receipt of indigent postage and forged his signature. Bustillo has not shown bad faith sufficient to warrant the imposition of a default judgment. There is no indication that the defendants or their counsel were aware of any alleged forgery. Moreover, Bustillo surely appears to be in receipt of enough postage to litigate this matter and the Court has already ruled that the defendants showed that Bustillo is not entitled to a preliminary injunction. Bustillo also seeks default based on his allegation that Counselor Gehrke testified falsely in her affidavit in support

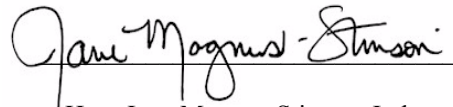
of the defendants' motion for summary judgment. The Court has denied the defendants' motion for summary judgment and set the matter for an evidentiary hearing at which the Court will have the opportunity to weigh the credibility of this testimony.

The drastic sanction of default is not warranted in these circumstances. Accordingly, Bustillo's motion for default judgment [dkt. 53] is **denied**.

IT IS SO ORDERED.

Date: 04/09/2014

Distribution:


Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

All Electronically Registered Counsel